

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture proposes to amend Sections 3033.2, 3033.3, and 3033.4 of the regulations in Title 3 of the California Code of Regulations pertaining to Registration of Avocado Trees.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before February 11, 2002.

INFORMATIVE DIGEST//POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary, for the purpose of promoting and protecting the agricultural industry of the state, may, upon request, inspect plants and the premises upon or near which they are growing and the records of their sources and qualities. The Secretary may upon the basis of information thus determined, maintain registries of the plants that are found not to be infested or infected, or liable to become infested or infected, with pests (Food and Agricultural Code, Section 5821). Existing law also provides that the Secretary may establish and enforce regulations that are necessary to carry out the purposes of the registries provisions (Food and Agricultural Code, Section 5823).

Sections 3033.2, 3033.3, and 3033.4 established a voluntary program under which avocado nursery stock may be produced and registered as being free from important diseases (sunblotch viroid).

The proposed amendment of Section 3033.2(b) will delete the phrase “or by other approved means” associated with the definition of “Index.” The proposed addition of 3033.2(j) will establish a definition for “Test.” The effect of these proposed amendments would be to refine the definition of “Index” and to provide a definition of “Test” as meaning any testing procedure using plant material or its extracts to determine the presence or absence of the disease agent in or on the tested plant material.

The proposed amendment of Section 3033.3(b) will be to delete the word “indexing” and replace it with the word “testing.” The effect of this proposed amendment will be to allow the Department to have avocado trees contained in a registered increase block indexed or tested, as a condition of approval of the increase block, and as deemed necessary by the Department, when the registered trees are planted in the ground and are located within 300 feet of nonregistered avocado trees. This will result in the voluntary program participant having as an alternative a faster method for determining if such candidate trees are free

from the sunblotch viroid.

The proposed amendment of Section 3033.4(a) will delete the word “indexing” and replace it with “testing.” The effect of this proposed amendment will be to provide the voluntary program participants with an alternative faster method to determine if candidate trees are free from the sunblotch viroid.

The proposed amendment of Section 3033.4(b)(1) will allow the option of having candidate trees “indexed” or “tested.”

It is proposed that the previously existing text of Subsection (b)(1) be redesignated as Section 3033.4(b)(1)(A). It is also proposed to add Section 3033.4(b)(1)(B) to provide for trees to be tested using the approved Polymerase Chain Reaction (PCR) developed to identify the sunblotch viroid. This test shall be performed by the University of California and in accordance with procedures established by the Department. If no evidence of sunblotch viroid is found, the candidate tree may be registered as a foundation stock tree.

The effect of these proposed amendments will be to provide the industry with an additional testing method, PCR, to establish whether or not candidate trees with no evidence of sunblotch viroid may be registered as a foundation tree with the Department. The proposed action does not differ from any existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that the amendment of Sections 3033.2, 3033.3, and 3033.4 does not impose a mandate on local agencies or school districts. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed amendments to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY

The Department proposes to amend Sections 3033.2, 3033.3, and 3033.4 pursuant to the authority vested by Sections 407 and 5823 of the Food and Agricultural Code of California.

REFERENCE

The Department proposes to amend Sections 3033.2, 3033.3, and 3033.4 to implement, interpret and make specific Section 5821 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The adoption of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed action, location of the rulemaking file, request for a public hearing, and final statement of reasons may be directed is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Kris Peeples at (916) 654-1017. Questions regarding the substance of the proposed regulations should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa/pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons is available upon request. Requests should be directed to the contact named herein.

If the regulations adopted by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

DEPARTMENT OF FOOD AND AGRICULTURE

Date

Undersecretary